THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P. Nos.4565 of 2006

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Dt. 27-3-2006

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1. Vemula Rajamohan and others ..Petitioners

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V.

1. The Government of Andhra Pradesh by its Commissioner, Comand Area Development & Principal Secretary to Government (Irrigation) I & CAD Department, Jala Soudha Building, Errumanzil, Hyderabad, and others. …Respondents

THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P. NO.4565/2006

ORAL ORDER

This writ petition is filed questioning the postponment of elections to Saguturu, Punnepalli, Lingasamudram, Vembulur, Matumadugu and Gundlasamudram Water Users Associations in Nellore District through G.O.Rt.Nos.343 to 348 Irrigation & Command Area Development (General-IV) Department dt. 22-2-2006 as arbitrary and illegal.

Learned counsel for the petitioners would contend that elections which were scheduled

earlier were postponed four times by the Government by exercising powers conferred in Section 4(5) and 4(6) of A.P. Farmers Management of Irrigation Systems, Act, 1997 (for short "the Act") only to muster the necessary strength to succeed in the elections, is a mockery of the democratic system and without there being any justification. When WP No.14826/2005, was filed for questioning the stay granted by the Government in G.O. Rt. No.501 dt. 23-4-2005, in view of issuing G.O.Rt.No.1039 Irrigation & Command Area Development (General-IV) Department dt. 8-7-2005 by the Government directing the District Collectors concerned to go ahead with preparation for elections to the Water Users Associations as per Rule 37 of the Election Manual and elections shall be conducted during the month of December, 2005, the said writ petition was ordered granting liberty to challenge the said GO. Pursuant to the said GO, elections were again notified and the same were postponed day before elections were sought to be held. He further contends that once

Government through G.O.Rt.No.1039 dt. 8-7-2005 vacated stay directing to conduct elections and issued notification, there is no justification to postpone the election.

The first respondent, Commissioner (CAD) Irrigation & CAD Department, Hyderabad, filed counter-affidavit stating that letter dt.7-1-2006 was circulated to 10 District Collectors, namely, East Godavari, Krishna, Prakasham, Nellore, Anantapur, Nalgonda, Khammam, Mahabubnagar, Medak and Karimnagar communicating the election schedule, whereunder the District Collectors were requested to instruct the officers concerned to rectify the mistakes in voters list with due care as per the provisions of the Act and Rules. The postponement of election was done on the representation received from the farmers to rectify defective voters list. In G.Os.53 and 54 to 58 dt. 5-1-2006 postponing the election by one month was only for making rectification in the voters list to ensure all the farmers will be participated in the election. Pursuant to the directions of this court in WP Nos.1063,1905,1916,1926 and 1999 of 2006 and on the representation made by the Minister for School Education that officers have not rectified the mistakes, elections were postponed by one month vide G.O.Ms.No.260 dt. 6-2-2006. Further farmers made a representation that officials could not rectify the mistakes as there is standing paddy crop and as such District Collector was requested to conduct elections by the end of April, 2006 through G.O.Rt.Nos.343 to 348 dt. 22-2-2006.

This court in WP Nos.1603/2006 and batch dt. 3-2-2006 while disposing of the writ petitions issued directions as follows:

"As directed by the Government in their orders in G.O.Rt.No.42 dt. 5-1-2006

(in relation to WUAs of Mudivarthi Bit-1 and Vidavalur, Nellore District) and G.O.Rt.No.46, dt. 6-1-2006 (in relation to WUAs Jannaram, Vallabhi and Mudigonda, Khammam District) the District Election Authorities ie., the District Collector, Nellore and District Collector, Khammam, shall first get all the voters lists verified though the officers of Irrigation Department not below the rank of Assistant Executive Engineer, publish voters lists as required under Rule 9(6) of the Delineation Rules land conduct elections ten days thereafter. If any person is aggrieved by additions or deletions in the voters lists published as per Rule 9(6) of the Delineation Rules, such persons may approach the Revenue Divisional Officer by way of appeal under Rule 10 lof the Delineation Rules as amended by G.O.Ms.No.7 dt. 17-1-2006, for appropriate redressal. Needless to add that after voters lists are prepared as directed hereinabove, the District Election Authorities shall conduct elections. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order."

Pursuant to the orders passed by this court dt. 3-2-2006 the Commissioner revised the election schedule of WUAs of Vidavalur, Mudivarthi Bit-I, Gundla Samudram, Lingasamudram, Matumadugu, Vembuluru, Punnepalli, Saguturu through his letter dt. 11-2-2006, and elections to WUAs of Saguturu, Punnepalli, Lingasamudram, Vembulur, Matumadugu and Gundlasamudram were postponed through the impugned GOs. Though on the farmers' representation for non inclusion of their names elections were postponed and right is accrued to them for inclusion of their names in the voters list. In the absence of their impleading in the writ petition, the submission made by the learned counsel for the petitioners that elections should be conducted pursuant to the voters list prepared and published as per Commissioner's letter dt.11-2-2006 cannot be conceded. Since it is the duty of the authorities to conduct elections to strengthen the water bodies as per the mandate of the Act, postponing the elections every time that too four times at the instance of the Ministers etc., creates a doubt in the minds of the voters that the election authorities and Government are acting in tune with such Ministers and it is not an healthy sign in the democratic system. It also probabilises that the Government to muster required strength to succeed in the elections are indulged in postponing the elections.

In view of the same, the District Collector, Nellore District shall first get all the voters lists verified through the Officers of the Irrigation Department not below the rank of Assistant Executive Engineer, publish the voters lists as required under Rule 9(6) of the Delineation Rules and conduct elections two weeks thereafter. If any person is

aggrieved by additions or deletions in the voters lists published, such persons may approach the District Collector by way of appeal under Rule 10 of the Delineation Rules as amended by G.O.Ms.No.7 dt.17-1-2005 for appropriate redressal. It is needless to add that after voters lists are prepared, the District Collector shall conduct elections. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this court.

With the above directions, the writ petition is accordingly disposed of. No costs.

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A.GOPAL REDDY,J

Dt. 27-3-2006

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